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John A. Ricker
Executive Director
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November 9, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S W
Room TW-A235
Washington, D. C. 20554

RE: TRS Cost Recovery
CC Docket No. 98-67

Dear Ms. Salas:

In a Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 98-67 on Telecommunications Relay Services, released March 6, 2000, the FCC required the Interstate Telecommunications Relay Services Fund Advisory Council and the Fund Administrator to develop guidelines for cost-recovery based on the Report and Order within six months of its publication in the Federal Register. The Report and Order was published on June 21, 2000. Enclosed are an original and four (4) copies of the Recommended TRS Cost Recovery Guidelines as required by the March 6th Report and Order in ¶ 33.

There are currently several petitions for reconsideration pending concerning the March 6th Report and Order. The Council and the Fund Administrator request that, should an order on reconsideration be released in the near future, we be given the opportunity to update the recommended guidelines and resubmit them to the Commission.

Acknowledgment and date of receipt of this letter is requested. A duplicate copy has been provided for that purpose.

Sincerely,



John A. Ricker

Enclosures

cc: Charles Keller, Network Services Division, Common Carrier Bureau
Staci Pies, Network Services Division, Common Carrier Bureau
Les Selzer, Network Services Division, Common Carrier Bureau
Karen Peltz-Strauss, Consumer Information Bureau

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing filing was served this 9th day of November, 2000, by mailing copies thereof by United States Mail, first class postage paid, or by hand delivery, to the persons listed below.

Robert Falkner

Robert Falkner

The following parties were served:

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Original

RECOMMENDED TRS COST RECOVERY GUIDELINES

Required by the FCC Report and Order and
Further Notice of Proposed Rulemaking
CC Docket No. 98-67, FCC 00-56
Released March 6, 2000

Developed and submitted by the
Interstate TRS Fund Advisory Council
and the TRS Fund Administrator
November 9, 2000

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INTRODUCTION

On March 6, 2000, the Commission released a Report and Order and Further Notice of Proposed Rulemaking, which amended the Telecommunications Relay Services (TRS) rules to expand the kinds of relay services available to consumers and to improve the quality of TRS.¹ This was published in the Federal Register on June 21, 2000.² The Commission based its amended rules on ten years of experience with the service and changes in available technologies. It is hoped that by improving the quality of TRS, employment opportunities for people with hearing and speech disabilities will be enhanced and their unemployment rate will decrease.

The FCC, supported by comments on the 1998 Notice of Proposed Rulemaking,³ directed the Interstate TRS Fund Administrator and Interstate TRS Fund Advisory Council to develop guidelines for interstate cost-recovery for the changes to TRS adopted in the March 6th Order⁴ within six months of its publication in the Federal Register. The Commission plans to provide the public an opportunity to comment on the recommended guidelines before the Commission's final approval is given.⁵

As noted above, the March 6th Order was published in the Federal Register on June 21, 2000. Consequently, cost recovery guidelines are due to the FCC by no later than **December 21, 2000**.

BRIEF BACKGROUND ON INTERSTATE TRS FUND

In a July 26, 1991 Report and Order, the FCC ordered that TRS be available nationwide by July 26, 1993.⁶ On July 20, 1993 the FCC released its Third Report and Order, which ordered that the costs of interstate TRS be recovered from all subscribers of every interstate service, utilizing a shared-funding cost recovery mechanism.⁷ TRS providers have been reimbursed from the interstate fund since July 26, 1993.

¹ Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 5140 (2000) (March 6th Order), *Order on Reconsideration*, FCC 00-200 (rel. June 5, 2000).

² 65 Fed. Reg. 38,490 (2000).

³ Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, *Notice of Proposed Rulemaking*, 13 FCC Rcd 14187 (1998) (1998 Notice of Proposed Rulemaking).

⁴ March 6th Order at ¶ 33.

⁵ *Id.*

⁶ Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, *Report and Order and Request for Comments*, 6 FCC Rcd 4567 (1991) (Report and Order).

⁷ Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, *Third Report and Order*, 8 FCC Rcd 5300 (1993) (Third Report and Order).

The Third Report and Order mandated that every carrier providing interstate telecommunications services contribute to the TRS Fund on the basis of gross interstate and international telecommunications revenues. In July 1999, in its Order streamlining carrier reporting requirements in CC Docket No. 98-171, the FCC changed the contribution base to end-user interstate and international telecommunications revenues.

Contributors' payments to the TRS Fund are calculated by multiplying their end-user revenues for the prior calendar year by a contribution factor determined annually by the Fund Administrator and approved by the Commission. The factor is based on the ratio of expected TRS Fund expenses to interstate end-user telecommunications revenues. Each carrier must contribute a minimum of \$25 per year.

In the July 1993 Report and Order, the FCC also required TRS providers to annually submit to the Fund Administrator the data necessary to determine the TRS Fund requirements and payments. The administrator uses the data provided to develop formulas that are filed annually with the Commission for their approval; payments are distributed based on these approved formulas. Formulas are based on minutes of use for completed interstate TRS calls, beginning after call set-up and concluding after the last message call unit.

COST RECOVERY FOR IMPROVED TRADITIONAL TRS

For purposes of this document, traditional TRS is defined as the relay service that has been federally mandated since July 26, 1993. Minimum standards and services required were included in the original rules ordered in the July 26, 1991 Report and Order.

In the March 6, 2000 Report and Order, the FCC changed many of the definitions and standards in the original rules and added new services like interstate Spanish to Spanish and Speech to Speech (STS). Video Relay Service (VRS), although not required, will be reimbursed from the TRS Fund. Cost recovery for STS and VRS will be addressed separately; these services are not considered part of traditional TRS.

Following are a list of changes to traditional TRS required by the March 6th Order to be in place by December 21, 2000 unless another date is specified. The nine items marked with an asterisk (*) could cause an increase in TRS providers' costs. Item 14 could also impact cost depending on the process imposed.

1. *Interstate Spanish to Spanish relay service is required by March 1, 2001.
2. Definition of a Communications Assistant (CA) was changed.
3. *Speed of answer requirement changed to require 85% of all calls to be answered in ten seconds by any method which results in the TRS caller's call immediately being placed, not put in a queue or on hold. The 10-second limit begins at the time the call is delivered to the TRS center's network. A provider's compliance with the 85%-10 second rule will be measured on a daily basis. Abandoned calls are mandated to be included in the speed-of-answer calculation. Compliance with the 85% standard will be measured by taking all calls

that are answered within ten seconds of reaching the relay center's network in such a way that the call is immediately handled and dividing it by all calls answered by the relay center.

4. *Calculations of the percentage of calls "blocked" or attempted by TRS users but never answered by the TRS center at all because of inadequate capacity into the facility, or staffing of the relay center, are now required. Relay centers' networks are to be designed to a P.01 standard. This is a network standard used to ensure that no more than 1% of calls at the busiest hour of the day are unable to be delivered to the relay center network due to inadequate facilities. A minimum blockage-standard, measured daily, of no greater than 1% is required. LECs are required to provide the call attempt rates and the rates of calls blocked between the LEC and the relay center to relay administrators and relay centers upon request.
5. *A CA, answering and placing a text telephone (TTY) TRS call, must stay with the call for a minimum of 10 minutes.
6. TRS providers must make their best efforts to accommodate a TRS user's desired CA gender.
7. *CAs must transmit words at a minimum speed equivalent to typing 60 words per minute (wpm). The speed need not be met only by typing but letters, numbers and characters must be entered for transmission at 60 wpm regardless of the technology used. TRS providers can employ CAs who type 60 wpm, or they can employ technology such as speech recognition or auto-correct software to otherwise transmit words at a speed equivalent to 60 wpm. A CA's typing speed must be tested on an oral-to-type test rather than a text-to-type test.
8. *Providers must transfer data on customers' TRS preferences in usable form at least 60 days prior to the provider's last day of service to ensure minimum disruptions to customers' calls. The effective date for this provision shall remain at thirty days after publication of the TRS Order in the Federal Register – September 21, 2000.
9. *Access through TRS to interactive menus is required. CAs are required to alert the user to the presence of a recorded message through a "hot key" on their terminal. Relay centers are required to record these recorded messages, which could be retained for the length of the call. Users of telecommunications relay services should pay rates no greater than the rates paid for functionally equivalent voice communications services and shall not be charged for additional calls needed to complete their interactions with recorded messages or interactive menu systems. It is anticipated that TRS providers will include the added costs of completing these interactions in their overall costs of providing relay service, for reimbursement from the state and interstate TRS Funds.
10. * Relay services are required to offer pay-per-call services as another component of functional equivalency.
11. *Providers are required to automatically and immediately transfer emergency calls to the appropriate 911 operator. The CA must pass along the caller's telephone number to the Public Service Answering Point (PSAP) when the caller disconnects before being connected to emergency services.

12. States are required to notify the FCC in writing about substantive changes in their TRS programs within 60 days of when they occur. Substantive changes include a major change in technology used by a state program, a change in state vendor, a change in a state TRS program to allow a multiple vendor environment, and changes in state rules related to any of the federal minimum standards for TRS.
13. State TRS programs are required to make available information on state and Commission complaint procedures to TRS users. States, providers of interstate TRS, and relay providers that have state contracts must provide contact information to the Commission that will be posted on the Commission's web site.
14. A "consumer friendly" model giving consumers the option of filing complaints "informally" will be incorporated into the TRS rules. The existing TRS complaint procedures will be retained as an option for consumers desiring formal adjudication of a complaint.
15. State applicants for TRS certification and interstate TRS providers are required to maintain a log of consumer complaints that allege a violation of the federal minimum standards. Also, complaint log summaries indicating the number of complaints received by states and TRS providers for the 12 month period ending May 31 must be submitted by the states and TRS providers to the Commission by July 1 of each year, beginning in 2001.

Assumptions concerning cost recovery for these improvements:

1. None of the listed improvements that could cause an increase in costs requires a model for provider cost recovery different from what is in place today. Current categories are adequate for the reporting of these expenses.
2. Most of the cost-causers are modifications to standards already in place. Some providers already offer some of the newly required features.
3. Calls to 900 numbers cannot be identified as intrastate or interstate; toll-free minutes present a similar situation. A billing methodology comparable to that used for toll free minutes could be used to allocate 900 calls between jurisdictions.
4. Costs associated with these improvements could be reported as part of the annual TRS Provider Data Request just as all costs are reported today.
5. Since the national average reimbursement was first introduced, providers appear satisfied with the methodology and the process of rate development.
6. For the July 2000 – June 2001 fund year, providers' costs could increase in December 2000 because of the implementation date associated with the new requirements.
7. FCC staff comments concerning TRS cost recovery suggest that we stay within the current rules to the extent possible.

Recommendation for cost recovery:

Continue to use the current national average rate methodology in place today for annual development of the interstate cost recovery reimbursement rate.

Review the TRS Center Data Request to ensure the sections and categories continue to be appropriate; update where necessary.

Collect Spanish to Spanish costs separately to test whether or not they are significantly different from English - English.

Assuming no difference, continue to reimburse providers on completed minutes of use at a single national average reimbursement rate.

Use the same allocation methodology in place today for toll-free call minutes for 900 call minutes.

COST RECOVERY FOR SPEECH-TO-SPEECH RELAY SERVICE

Speech-to-speech (STS) relay service provides an alternative to using a TTY for persons with speech disabilities. STS utilizes CAs who have been specially trained to understand different speech patterns. The CA repeats the words spoken by the person with the speech disability to the other party. Implementation of STS does not require new or additional equipment; its basic architecture is that of a three-way call.

The March 6 Order requires STS service in place by March 1, 2001. Reimbursement for STS minutes will begin with March 2001 minutes reported in April and paid in June. The FCC adapted the minimum standards for traditional TRS to make them appropriate for STS. STS service will be subject to the mandatory minimum standards with the exception of the following:

- competent skills in typing and spelling for CAs
- capability of communicating in ASCII and Baudot format, at any speed generally in use
- transmission of conversation between TTY and voice caller in real time.

A new minimum standard was added for STS, requiring relay providers to offer STS users the option of maintaining a list of frequently called names and telephone numbers at the relay center. Also, the rule requiring CAs to relay all conversations verbatim is amended to allow some flexibility for STS CAs relaying conversations.

The FCC also modified the TRS rule concerning retention of information. STS CAs will be permitted to retain information from a call to facilitate completion of consecutive calls at the request of the calling party or the CA may ask the party if she wishes to retain the information for use on subsequent calls. The new rule concerning CAs staying with a call for a minimum amount of time is set at 15 minutes for STS calls.

It is expected that most STS service will be provided through regional centers, reducing the total number of qualified individuals necessary to handle the expected demand.

Assumptions concerning cost recovery for STS:

1. STS is a relatively new service, currently in place in approximately fifteen states.
2. STS is significantly different from traditional TRS due to the lack of technology involved and its primary reliance on the CA's listening and verbal skills.
3. Historical data on STS is minimal. What data there is could be misleading because of the newness of the service and the lack of awareness in the community.
4. Most providers did not estimate STS costs or minute volumes in their data submissions due to their lack of experience with the service.
5. Providers' estimates of costs and minutes for 2000 and 2001 varied widely.
6. Up-front technology costs to the TRS providers to establish STS service are not significant; labor is expected to be the major expense.
7. A limited number of regional centers will handle STS traffic, theoretically controlling costs better because of economies of scale.
8. STS calls reimbursed from the interstate fund will be made in English or Spanish and fall into the categories of interstate/international, toll-free and 900 minutes.
9. Over time, set-up and conversation time for traditional TRS calls has decreased. At this time, there is not enough historical data to determine if this will occur with STS.
10. Costs associated with STS could be reported within the framework of the existing annual TRS Center Data Request, as traditional TRS costs are reported today.
11. Nothing inherent to the service would appear to require a model for provider cost recovery different from what is in place today.

Recommendation for cost recovery:

The same methodology for rate development in place today for traditional TRS interstate cost recovery could be used to develop the STS reimbursement rate

However, due to its unique characteristics, a separate reimbursement rate based on STS costs and minute demand should be calculated.

Expand the TRS Center Data Request to include specific STS sections to capture the costs and minutes separately.

Reimburse providers on completed minutes of use at a national average reimbursement rate for STS.

COST RECOVERY FOR VIDEO RELAY SERVICE

Video Relay Service (VRS) allows TRS users with hearing or speech disabilities to communicate with voice telephone users through video equipment installed either at the premises of the person with the disability or another appropriate location, and at the relay center. FCC rules require that VRS CAs be qualified interpreters as defined by the Department of Justice in its Title II and III regulations. The VRS CA interprets the sign language of the deaf or hard of hearing person to the hearing party.

The FCC did not require VRS in its March 6th Order but did allow the costs of intrastate and interstate calls to be reimbursed from the interstate TRS Fund while they continue to evaluate the issues surrounding mandating the service. The Commission hopes to encourage industry and consumer investment in the equipment and technologies necessary to use VRS without financially burdening state programs or creating risk associated with mandating the use of specific equipment not fully tested in the marketplace. This funding method is temporary, however, and when VRS develops to a point where the FCC can require it, cost recovery will revert to the traditional mechanism.⁸

In its May 1, 2000 TRS filing, NECA used October 1, 2000 to project the VRS funding requirement since the FCC had not specified a date for reimbursement in the March 6th Order. October 1 was chosen because the date of publication in the Federal Register was unknown at the time of the filing and October 1 was approximately six months from the Order's release. Reimbursement for VRS will begin with October 2000 minutes, reported in November and paid in December.

VRS will generally be subject to the mandatory minimum standards for TRS with the following exceptions:

- competent skills in typing and spelling for CAs
- capability of communicating with ASCII and Baudot format, at any speed generally in use
- transmission of conversations between TTY and voice callers in real time.
- not required to operate every day, 24 hours a day.

It is expected that most VRS service will be provided through regional centers, reducing the total number of qualified individuals necessary to handle the expected demand. As users have more access to equipment necessary to make VRS calls, the call volume is expected to grow.

Assumptions concerning cost recovery for VRS:

1. VRS trials have occurred or are occurring in several states but the service has only been implemented in North Carolina and Texas.

⁸ March 6th Order at ¶ 27.

2. VRS is significantly different from traditional TRS due to the video technology involved and the need for qualified interpreters as CAs.
3. Up-front technology costs to providers to establish VRS could be substantial. Ongoing labor expenses will be significant due to the difference in labor rates between traditional CAs and qualified interpreters.
4. Early RFPs for TRS reimbursed for large, nonrecurring expenses up front but the bidding process quickly migrated to a price per minute methodology for all expenses.
5. Historical data on VRS is extremely limited, coming primarily from trial situations.
6. Most providers did not estimate VRS costs or minute volumes in their data submissions due to their lack of experience with the service.
7. The estimates of providers who did project costs and minutes for 2000 and 2001 varied widely.
8. A limited number of centers will handle VRS traffic, theoretically controlling costs better because of economies of scale.
9. VRS calls reimbursed from the interstate fund will be made in English or Spanish and fall into the categories of intrastate, interstate/international, toll-free and 900 minutes.
10. Costs associated with VRS could be reported within the framework of the existing annual TRS Center Data Request, as traditional TRS costs are reported today.
11. Nothing inherent to the service would appear to require a model for provider cost recovery different from what is in place today.

Recommendation for cost recovery:

The same methodology for rate development in place today for traditional TRS interstate cost recovery could be used to develop the VRS reimbursement rate.

However, due to its unique characteristics, a separate reimbursement rate based on VRS cost and minute demand should be calculated.

Expand the TRS Center Data Request to include specific VRS sections to capture the costs and minutes separately.

Reimburse providers on completed minutes of use at a national average reimbursement rate for VRS.

SUMMARY

NECA, as the TRS Fund Administrator, has managed the interstate TRS Fund since its inception in 1993 and now has seven years' experience working with the shared funding cost recovery mechanism. The Interstate TRS Fund Advisory Council has been involved in monitoring TRS cost recovery matters since 1994. Council members bring a wide range of TRS experience to the table, providing the perspectives of the disability community, users, providers, administrators, regulators, and contributors.

After a careful review of the new services required by the FCC's March 6th Order, both the Council and the Fund Administrator believe that the current cost recovery mechanism will accommodate all of the modifications to traditional TRS as well as Speech-to-Speech Relay Service (STS) and Video Relay Service (VRS). In the cases of STS and VRS, we believe that, while these services have unique characteristics and should be handled separately from traditional TRS, there is no reason to develop a different cost recovery mechanism for them.

The Council and the Fund Administrator appreciate the FCC giving us the opportunity to develop guidelines for interstate cost recovery for the changes to TRS adopted in the March 6th TRS Order. We submit them with the expectation that they will be placed on public notice and the public given the opportunity to comment before the Commission gives final approval. We also request that, should an order on reconsideration be released in the near future, we be given the opportunity to update the recommended guidelines and resubmit them to the Commission.